

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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MARY CHRISTINE WHITTAKER,

Plaintiff,

Civil Action No.: 07 CV 7342
(VM)

-against-

THE ART STUDENTS LEAGUE,

Defendant.

AMENDED ANSWER

JURY TRIAL DEMANDED

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Defendant, THE ART STUDENTS LEAGUE, by its attorneys, RIVKIN RADLER LLP, respectfully submits the following upon information and belief as and for its amended answer to plaintiff's complaint:

FIRST: Defendant denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "1", "5", "6", "7" and "8" of the plaintiff's complaint and respectfully refers all questions of Law to this Honorable Court.

SECOND: Defendant denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "2", "10"¹, "23", "24", "25", "27" and "28" of the plaintiff's complaint.

THIRD: Defendant denies each and every allegation contained in paragraphs numbered "9", "10"², "11", "12", "13", "14", "15", "16", "17", "18", "19", "20", "21", "22" and "26" of the plaintiff's complaint.

¹ Plaintiff's complaint contains two paragraphs numbered "10." This response relates to the first paragraph numbered "10" in plaintiff's complaint.

² This response relates to the second paragraph numbered "10" in plaintiff's complaint.

ANSWERING THE FIRST CAUSE OF ACTION

FOURTH: Answering paragraph numbered "29" of the plaintiff's complaint herein, defendant, THE ART STUDENTS LEAGUE, repeats and reiterates each and every denial heretofore made in regard to each and every paragraph of plaintiff's complaint, designated as "1" through "28" inclusive with the same force and effect as though more fully set forth at length herein.

FIFTH: Defendant denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "31" and "32" of the plaintiff's complaint and respectfully refers all questions of Law to this Honorable Court.

SIXTH: Defendant denies each and every allegation contained in paragraphs numbered "33", "34", "35" and "36" of the plaintiff's complaint.

ANSWERING THE SECOND CAUSE OF ACTION

SEVENTH: Answering paragraph numbered "37" of the plaintiff's complaint herein, defendant, THE ART STUDENTS LEAGUE, repeats and reiterates each and every denial heretofore made in regard to each and every paragraph of plaintiff's complaint, designated as "1" through "36" inclusive with the same force and effect as though more fully set forth at length herein.

EIGHTH: Defendant denies each and every allegation contained in paragraph numbered "38" of the plaintiff's complaint and refers all questions of Law to this Honorable Court.

NINTH: Defendant denies each and every allegation contained in paragraphs numbered "39", "40" and "41" of the plaintiff's complaint.

ANSWERING THE THIRD CAUSE OF ACTION

TENTH: Answering paragraph numbered "42" of the plaintiff's complaint herein, defendant, THE ART STUDENTS LEAGUE, repeats and reiterates each and every denial heretofore made in regard to each and every paragraph of plaintiff's complaint, designated as "1" through "41" inclusive with the same force and effect as though more fully set forth at length herein.

ELEVENTH: Defendant denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "43" and "44" of the plaintiff's complaint and respectfully refers all questions of Law to this Honorable Court.

TWELFTH: Defendant denies each and every allegation contained in paragraph numbered "45" of the plaintiff's complaint and refers all questions of Law to this Honorable Court.

THIRTEENTH: Defendant denies each and every allegation contained in paragraphs numbered "46" and "47" of the plaintiff's complaint.

ANSWERING THE FOURTH CAUSE OF ACTION

FOURTEENTH: Answering paragraph numbered "48" of the plaintiff's complaint herein, defendant, THE ART STUDENTS LEAGUE, repeats and reiterates each and every denial heretofore made in regard to each and every paragraph of plaintiff's complaint, designated as "1" through "47" inclusive with the same force and effect as though more fully set forth at length herein.

FIFTEENTH: Defendant denies each and every allegation contained in paragraph numbered "49" of the plaintiff's complaint and refers all questions of Law to this Honorable Court.

SIXTEENTH: Defendant denies each and every allegation contained in paragraphs numbered "50" and "51" of the plaintiff's complaint.

ANSWERING THE FIFTH CAUSE OF ACTION

SEVENTEENTH: Answering paragraph numbered "52" of the plaintiff's complaint herein, defendant, THE ART STUDENTS LEAGUE, repeats and reiterates each and every denial heretofore made in regard to each and every paragraph of plaintiff's complaint, designated as "1" through "51" inclusive with the same force and effect as though more fully set forth at length herein.

EIGHTEENTH: Defendant denies having knowledge or information sufficient to form a belief as to each and every allegation contained in paragraphs numbered "53" and "54" of the plaintiff's complaint and respectfully refers all questions of Law to this Honorable Court.

NINETEENTH: Defendant denies each and every allegation contained in paragraph numbered "55" of the plaintiff's complaint and refers all questions of Law to this Honorable Court.

TWENTIETH: Defendant denies each and every allegation contained in paragraphs numbered "56" and "57" of the plaintiff's complaint.

ANSWERING THE SIXTH CAUSE OF ACTION

TWENTY-FIRST: Answering paragraph numbered "58" of the plaintiff's complaint herein, defendant, THE ART STUDENTS LEAGUE, repeats and reiterates each and every denial heretofore made in regard to each and every paragraph of plaintiff's complaint, designated as "1" through "57" inclusive with the same force and effect as though more fully set forth at length herein.

TWENTY-SECOND: Defendant denies each and every allegation contained in paragraph numbered "59" of the plaintiff's complaint and refers all questions of Law to this Honorable Court.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

TWENTY-THIRD: That plaintiff's complaint fails to state a claim against this answering defendant upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

TWENTY-FOURTH: That the rights of action and/or the causes of action and/or each of them set forth in the plaintiff's complaint as against the defendant is barred by the applicable Statutes of Limitations.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

TWENTY-FIFTH: Plaintiff has failed to exhaust her administrative remedies.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

TWENTY-SIXTH: Plaintiff has failed to mitigate her alleged damages.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

TWENTY-SEVENTH: Plaintiff's claims are barred by the doctrine of laches.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

TWENTY-EIGHTH: Defendant had a legitimate, independent and nondiscriminatory business reason for its actions and, therefore, its actions were not the result of unlawful discrimination.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

TWENTY-NINTH: To the extent plaintiff asserts a claim for relief based upon retaliation defendant will assert, the extent applicable, the doctrine of dual motivation.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

THIRTIETH: This Honorable Court lacks jurisdiction over the defendant as the complaint was not properly served pursuant to the Federal Rules of Civil Procedure.

AS AND FOR A NINTH AFFIRMATIVE DEFENSE

THIRTY-FIRST: This action should be dismissed since this Honorable Court lacks jurisdiction over the subject matter of this action.

AS AND FOR A TENTH AFFIRMATIVE DEFENSE

THIRTY-SECOND: Defendant exercised reasonable care to prevent and correct promptly any alleged sexually harassing behavior and plaintiff respectively unreasonable failed to take advantage of any preventive or corrective opportunities provided or otherwise avoid harm.

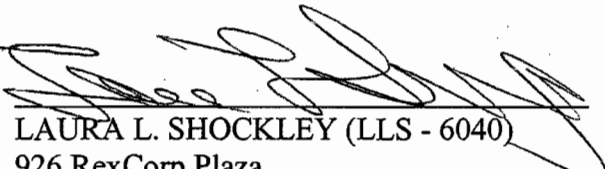
WHEREFORE, defendant, THE ART STUDENTS LEAGUE, demands judgment dismissing the plaintiff's complaint herein, together with the costs and disbursements of this action.

Dated: Uniondale, New York
September 27, 2007

Yours, etc.,

RIVKIN RADLER LLP
Attorneys for Defendant
THE ART STUDENTS LEAGUE

By:



LAURA L. SHOCKLEY (LLS - 6040)
926 RexCorp Plaza
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(516) 357-3000
File No.: 009610-00031

TO: LOCKSLEY O. WADE, ESQ.
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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

MARY CHRISTINE WHITTAKER,

Plaintiff(s),

-against-

THE ART STUDENS LEAGUE,

Defendant(s).

AMENDED ANSWER

RIVKIN RADLER LLP

Attorneys for

Defendant

926 RECKSON PLAZA
UNIONDALE, NEW YORK 11556-0926
(516) 357-3000

FILE# 009610-00031 /

To:

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated:

.....
Attorney(s) for

PLEASE TAKE NOTICE

Check Applicable Box

☐ that the within is a (certified) true copy of a
NOTICE OF ENTRY entered in the office of the clerk of the within named Court on

20

☐ that an Order of which the within is a true copy will be presented for settlement to the Hon.
NOTICE OF SETTLEMENT at one of the judges of the within named Court,

on

20

, at

M.

Dated:

RIVKIN RADLER LLP

Attorneys for

926 RECKSON PLAZA
UNIONDALE, NEW YORK 11556-0926

To:

FILE# _____/

Attorney(s) for